IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.	10/065,729	**Conf. No.**	6166
In Re Application of:	Buswell *et al.*	**Art Unit:**	2152
Filed:	11/13/2002	**Dkt. #:**	BUR920020006US1 (IBMB-0013)
Title:	CLIENT-SERVER TEXT MESSAGING MONITORING FOR REMOTE COMPUTER MANAGEMENT	**Examiner:**	Doan, Duyen My

---

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF OF APPELLANTS

This is an appeal from the Final Rejection (Office Action) dated April 26, 2006, rejecting claims 1-20. Please charge deposit account 09-0456 for any required fees.

REAL PARTY IN INTEREST

International Business Machines Corporation is the real party in interest.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

STATUS OF CLAIMS

As filed, this case includes claims 1-20. Claims 1-20 remain pending, stand rejected, and form the basis of this appeal. No claim has been allowed. The rejections of claims 1-20 are being appealed.

STATUS OF AMENDMENTS

No amendment has been filed following the Final Rejection of June 12, 2006.

SUMMARY OF THE CLAIMED SUBJECT MATTER

A first aspect of the present invention provides a system (8 of FIG. 1) for performing remote computer system management (*see* ¶ 0017), the system comprising: a client-server text messaging (CSTM) monitor (54 of FIG. 1) installed on a computer system (20 of FIG. 1), the monitor configured to monitor a CSTM server (40 of FIG. 1) for a command from a management system (22 of FIG. 1; *see* ¶¶ 0017 and 0021; *see* also FIG. 1) posted thereto; and a management program (56 of FIG. 1) installed on the computer system (20 of FIG. 1) which is responsive to the command from the management system (22 of FIG. 1; *see* ¶¶ 21 and 23).

A second aspect of the present invention provides a method of managing a managed computer system (*see* ¶ 0017), the method comprising the steps of: monitoring (by 54 of FIG. 1) a client-server text messaging (CSTM) server (40 of FIG. 1) for a command from a management system (22 of FIG. 1) posted thereto (*see* ¶¶ 0017 and 0021; *see* also FIG. 1), each command including a computer system identifier for the command and an instruction (*see* ¶ 0022); and receiving the command at the managed computer system and executing the instruction with a management program (*see* ¶¶ 0021 and 0023; CSTM monitor 54 monitoring and receiving

commands, command deconstructor 58 filtering commands addressed to a specific managed system 20, management program 56 executing the instruction part of a command to generate data, and response constructor 60 generating a response based on the data from management program 56).

A third aspect of the present invention provides a computer program product (50 of FIG. 1) comprising a computer useable medium (e.g., memory 42 of FIG. 1) having computer readable program code embodied therein for implementing remote computer management of a computer system (*see* ¶ 0017), the program product comprising: program code configured to monitor (by 54 of FIG. 1) a client-server text messaging (CSTM) server (40 of FIG. 1) for a command from a management system (22 of FIG. 1) posted thereto (*see* ¶¶ 0017 and 0021; *see* also FIG. 1), each command including a computer system identifier for the command and an instruction (*see* ¶ 0022); and program code configured to manage the computer system responsive to the instruction (*see* ¶¶ 0021 and 0023; CSTM monitor 54 monitoring and receiving commands, command deconstructor 58 filtering commands addressed to a specific managed system 20, management program 56 executing the instruction part of a command to generate data, and response constructor 60 generating a response based on the data from management program 56).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1-7, 9-12, 14-18 and 20 are anticipated under 35 U.S.C. §102(e) by Wick (USPN 6,691,162).

2. Whether claims 8, 13 and 19 are unpatentable under 35 U.S.C. §103(a) over Wick in view of MacGregor et al. (US Pub. No. 2005/0102382), hereafter "MacGregor."

ARGUMENT

The claimed invention includes a management system, a CSTM server, a CSTM monitor and a management program both in a (managed) computer system. In operation, the management system posts a command in the CSTM server for the management program of the managed computer system; the CSTM monitor of the managed computer system monitors the command in the CSTM server; and the management program of the managed computer system is responsive to the command monitored by the CSTM monitor to achieve remote management. (*See*, e.g., FIG. 1; *see* also ¶¶ 0019, 0021, and 0023.)

1. **Claims 1-7, 9-12, 14-18 and 20 rejected under 35 U.S.C. §102(e) by Wick (USPN 6,691,162).**

Appellants submit that Wick does not disclose the monitoring/monitor feature of the claimed invention. With respect to independent claims 1, 10 and 14, the claimed invention includes, *inter alia*, "the (CSTM) monitor configured to monitor a CSTM server for a command from a management system posted thereto[.]" (Claim 1, emphasis added; similarly claimed in claims 10 and 14). That is, in the claimed invention, the CSTM monitor is configured to monitor a command from a management system different than the computer system where the CSTM monitor is located. In the Office Action, the Examiner does not specifically provide which part of Wick discloses the monitoring/monitor feature. Rather, the Examiner only provides a rough citation of Wick to support the rejection. (*See*, e.g., Office Action at page 3). However, careful reading of the cited portions (and the whole disclosure) of Wick reveals that the targeting user/

targeted user operation of Wick does not include the claimed monitoring/monitor feature, as will be discussed in detail below.

Although unclear from the Examiner's statements (*see*, e.g., Office Action at page 3), Appellants assume for argument sake that the Examiner is alleging that one of the IM clients of Wick (targeting or targeted user) is a management system in order to address the above identified claim limitation. However, even if this assumption is correct, Wick fails to disclose this feature. Appellants will address each possible scenario to illustrate, but emphasize that the particulars presented are made for argument sake only and that Appellants are not admitting that Wick discloses any of the details presented. In a first scenario, the Examiner may be alleging that the targeting user in Wick is a management system and the targeted user is a managed computer system. In this assumption case, the management system (targeting user) sets up a command (pounce) in the server to be executed by a management program (targeted user) installed on the managed computer system (targeted user). However, in this scenario, the managed computer system (targeted user) does not monitor the server for the command (pounce) because, in Wick, the targeted user is passive regarding a pounce set up by the targeting user until a hand shake has been established from the server. Accordingly, the managed computer system (targeted user) does not monitor the server, and Wick fails to disclose all of the claimed features based on this scenario of assumptions. In addition, under this assumption case, there is no disclosure of a management program on the targeted user.

In a second assumption scenario, the Examiner may be alleging that a targeted user in Wick is a management system and a targeting user is a managed computer system. In this case, the alleged managed computer system (targeting user) does not monitor the server for a command because the targeting user is notified by the server, but does not monitor the server.

(*See* col. 5, lines 25-27.) Moreover, under the second scenario, an occurrence of a specified event by the management system (targeted user) is not a command from the management system (targeted user), i.e., an instruction to do something. In conducting the specified event, the management system (targeted user) does not have the intention to request the managed computer system (targeting user) to do something. That is, the management system (targeted user) performs a passive specified event, but it does not issue a command. In addition, under this assumption case, there is no disclosure of a management program on the targeting user.

In view of the foregoing, in both assumption scenarios, which are the only possible scenarios, Wick does not disclose "the monitor configured to monitor a CSTM server for a command from a management system posted thereto[.]" (Claim 1). Accordingly, Appellants respectfully submit that Wick does not anticipate the claimed invention.

Further, Appellants submit that Wick does not disclose the management feature of the claimed invention. In addition, the Examiner never addresses what function of Wick discloses the management feature. With respect to independent claims 1, 10 and 14, the claimed invention includes, *inter alia*, "a command from a management system" and "a management program installed on the computer system which is responsive to the command from the management system." (Claim 1; similarly claimed in claims 10 and 14). Management generally means act, manner, or practice of managing, handling, supervision, or control. The specification of the current invention further describes management as "to evaluate, monitor and correct problems on [a] managed computer system[,]" where the management program is located. (Specification at paragraph 0017). In addition, a management program is defined as "any now known or later developed computer management utility that is responsive to commands issued by [a] management system." (Specification of current application at paragraph 20). Appellants submit

that Wick does not disclose, *inter alia*, a management system or a management program. (Claim 1). In particular, Wick relates to an instant messaging (IM) system that allows a targeting user (pouncer) to set up a "pounce" that executes when a specified event occurs, e.g., targeted user (pouncee) performs a certain act like signing on. A pounce refers to an ability to "send a message, emit an audible or visual notification, execute a command, etc." (Col. 5, lines 1-4). The targeting user is notified of the specified event's occurrence. (Col. 5, line 24-27). As will be further analyzed below, such a pounce operation is not management.

Wick never discloses a management system that is capable of evaluating, monitoring and correcting problems on managed computer systems (i.e., the definition of management in the specification), or is capable of managing, handling, supervising, or controlling managed computer systems (i.e., the general definition of management). An instant messaging (IM) system and/or an IM client application thereof are incapable of performing the above identified functions. In particular, the IM system and client applications as disclosed in Wick are incapable of evaluating a situation on another computer system such as determining an application's update status, and cannot correct problems on those systems. That is, Wick, even if the term is given its broadest interpretation possible, does not disclose or suggest "management" tasks as defined by the current application. Appellants submit that the Examiner's apparent reliance on one or the other of the IM client applications in Wick (i.e., targeting or targeted user IM clients) acting as a management system is illogical and should be reconsidered. Appellants also note that the Examiner never addresses the recited language that the "command [is] from a management system." (*See* OA at page 3.) Furthermore, Wick does not disclose a management program that is responsive to commands from a management system. In view of the foregoing, Wick does not

disclose the claimed invention including a management system or a management program. Accordingly, Appellants respectfully request reversal of the rejection.

2. Claims 8, 13 and 19 rejected under 35 U.S.C. §103(a) over Wick in view of MacGregor et al. (US Pub. No. 2005/0102382), hereafter "MacGregor."

Claims 2-9 are dependent upon claim 1, claims 11-13 are dependent upon claim 10 and claims 15-19 are dependent upon claim 14. The dependent claims are believed to be allowable based on the above arguments, as well as for their own additional features.

In view of the foregoing, Appellants submit that the Final Office Action is defective and should be reversed.

Respectfully submitted,

Dated: 09/25/06

Spencer K. Warnick
Reg. No. 40,398

(JZ)

Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, NY 12207
(518) 449-0044 - Telephone
(518) 449-0047 - Facsimile

CLAIMS APPENDIX

1. A system for performing remote computer system management, the system comprising:

a client-server text messaging (CSTM) monitor installed on a computer system, the monitor configured to monitor a CSTM server for a command from a management system posted thereto; and

a management program installed on the computer system which is responsive to the command from the management system.

2. The system of claim 1, wherein the CSTM monitor and server are configured to function according to Internet relay chat protocol.

3. The system of claim 1, wherein the command is in the form of a text string.

4. The system of claim 1, wherein the command includes a preface, an identifier and an instruction for the management program.

5. The system of claim 1, wherein the CSTM monitor is also configured to post a response from the management program to the CSTM server.

6. The system of claim 1, wherein the CSTM server includes a log program configured to record CSTM server activities.

7. The system of claim 1, wherein the CSTM server is configured to receive commands from an update server.

8. The system of claim 1, wherein the CSTM monitor is also configured to sense a problem in the computer system.

9. The system of claim 1, wherein the management program is idle until it receives a command.

10. A method of managing a managed computer system, the method comprising the steps of:

monitoring a client-server text messaging (CSTM) server for a command from a management system posted thereto, each command including a computer system identifier for the command and an instruction; and

receiving the command at the managed computer system and executing the instruction with a management program.

11. The method of claim 10, wherein the command is in the form of a text string.

12. The method of claim 10, wherein the CSTM server is configured to function according to Internet relay chat protocol.

13. The method of claim 10, further comprising the step of sensing a problem in the computer system and posting a response to the CSTM server and channel regarding the problem.

14. A computer program product comprising a computer useable medium having computer readable program code embodied therein for implementing remote computer management of a computer system, the program product comprising:

program code configured to monitor a client-server text messaging (CSTM) server for a command from a management system posted thereto, each command including a computer system identifier for the command and an instruction; and

program code configured to manage the computer system responsive to the instruction.

15. The program product of claim 14, wherein the program code is configured to monitor functions according to Internet relay chat protocol.

16. The program product of claim 14, wherein the command is in the form of a text string.

17. The program product of claim 14, wherein the command includes a preface, an identifier and an instruction for the management program code.

18. The program product of claim 14, further comprising program code configured to record posted commands at the CSTM server.

19. The program product of claim 14, further comprising program code configured to sense a problem in the computer system and post a response to the CSTM server regarding the problem.

20. The program product of claim 14, further comprising program code configured to post a response from the management program to the CSTM server.

EVIDENCE APPENDIX

There is no evidence submitted.

RELATED PROCEEDINGS APPENDIX

There is no related proceeding.

CERTIFICATE OF SERVICES

There is no other party to this appeal proceeding.